

ALABAMA BOARD OF NURSING

REGULAR BOARD MEETING

Fiscal Year 2013-2014

Suite 350, RSA Plaza

770 Washington Ave

Montgomery, Alabama

December 12, 2013

I. CALL TO ORDER

A. Roll Call

The meeting was called to order at 9:08 a.m. on December 12, 2013. The following Board members were present: Martha G. Lavender, RN, DSN, President; Carol Stewart, CRNP, MSN, Vice-President; Melissa Bullard, LPN, Secretary; Eugene Akers, PhD; Pamela Autrey, PhD., MSN, RN; Catherine Dearman, RN, PhD; Maggie Lee Hopkins, LPN; Francine Parker, EdD, MSN, RN; Amy Price, MSN, RN; Lynda F. LaRue, RN, ADN, CMTE; and E. Laura Wright, MNA, CRNA, PhD. Genell Lee, RN, MSN, JD, Executive Officer and Leslie Vinson, Executive Secretary/Recorder were present. Staff members attending portions of the meeting were: Peggy Benson, MSN, RN, Deputy Director; Cathy Boden, MSN, RN, Legal Nurse Consultant; Charlene Cotton, MSN, RN, Advanced Practice; Dawn Daniel, MSN, RN, Probation Nurse Consultant; Honor Ingels, Chief Legislative and Information Officer; Joyce Jeter, MSN, RN, CE/Practice Nurse Consultant; Ladonna Patton, RN, MSN, Legal Nurse Consultant; Cathy Russell, MSN, RN, PhD, Nursing Education Consultant; Brad Jones, IT Systems Specialist; Robert Rollins, IT Systems Specialist; Patrick Samuelson, Assistant General Counsel; and Alice Maples Henley, General Counsel.

B. Declaration of Quorum

A quorum was declared with eleven Board members present. Miriam Ellerbe, LPN; and Gregory Howard, LPN, were not present.

C. Statement of Compliance with Open Meetings Act

Prior notice of this meeting was posted on the Secretary of State's web site in accordance with the Alabama Open Meetings Act.

D. Review of Agenda

1. Additions, Modifications, Reordering

IV.E. Report of Meeting with BME

2. Adoption of Agenda

On December 12, Dr. Dearman moved that the Board approve the Agenda, as amended. Dr. Wright seconded. Motion carried without objection.

II. ADVANCED PRACTICE

A. Approval of Collaborative Practices

Ms. Cotton reported that the roster includes thirty-six applications for collaborative practice that meet the criteria for fast track approval without Joint Committee review. The Board of Medical Examiners (BME) met on December 11, 2013 to consider the fast track applications. Applications for remote site practice, additional duties and/or special formulary will be presented to the Joint Committee at the February 18, 2014 meeting.

Ms. Cotton provided copies of the roster for the Board's review and approval.

On December 12, Ms. LaRue moved that the Board approve the applicants for collaborative practice as listed in the published roster. Dr. Wright seconded. Motion carried without objection.

B. Standard Protocols

Ms. Benson reported that all Advanced Practice Nurses (APN) are educationally prepared to provide a scope of services across the health wellness-illness continuum to at least one population focus as defined by nationally recognized role and population-focused competencies and the obtainment of national certification in each specialty.

The Joint Committee and ABN previously approved the skill/procedures list for Certified Registered Nurse Practitioners

(CRNP) and Certified Nurse Midwives (CNM) with a ranking system since 1997. Ranking Level 2 and 3 skills/procedures are generally allowed for the specialty practice with documentation of training of the advanced practice nurse by the collaborative practice physician. These skills/procedures are basic level procedures which could be easily applied, to the CRNP and/or CNM standard protocol.

The skill/procedure level would be indicated on the standard protocol for each CRNP/CNM specialty certification. These procedures have historically been approved with few to no exceptions or exclusions.

Staff is proposing that Level 2 and 3 skills be added to the standard protocol for the following CRNP and CNM certifications: 1) Acute Care; 2) Adult Care; 3) Adult Psych and Mental Health; 4) Certified Nurse Midwife; 5) Family; 6) Family Psych and Mental Health; 7) Gerontology; 8) Hospice and Palliative Care; 9) Neonatal; 10) Oncology; 11) Pediatric Acute Care; 12) Pediatric; and 13) Women's Health.

Ms. Benson reported that BME approved the proposed changes with the following modifications: 1) Sclerotherapy of Telangiectasis with FDA approved Solutions; and 2) Biopsies (Skin) Shave/Punch: allowed to perform shave excisions/biopsies not to exceed 5 mm in diameter and not below the level of full dermis; if on anatomically sensitive areas such as eyes and ears, must be evaluated by a physician prior to treatment; on other areas of the body, limited to a depth which can be closed with a simple single layer closure.

Ms. Benson provided copies of the standard protocols for the different certifications for the Board's information and review.

The Board reviewed and discussed the information provided.

On December 12, Ms. Stewart moved that the Board approve adding to the standard protocol for each CRNP/CNM specialty certification, the skill/procedures classified as Level 2 and 3 from the documented additional duties approved for CRNP and CNM advanced practice checklist with the exclusion of Arthrocentesis, injection of shoulder, elbow, knee, and ankle; greater Trochanteric Bursa excludes hip joint which is now the orthopaedic specialty protocol. Dr. Wright seconded. Motion carried without objection.

C. Specialty Protocols

Ms. Benson reported that this is not a new request only a new process, new look and application selection for the new on-line system.

The Joint Committee and ABN previously approved the skill/procedures list for Certified Registered Nurse Practitioners (CRNP) and Certified Nurse Midwives (CNM) with a listing of Specialty Skills through a ranking system since 1997. Ranking Level 4 through 8 (excluding 7) are skills/procedures generally allowed for the specialty practice with documentation of training of the advanced practice nurse by the collaborative practice physician. These skills/procedures are advanced level procedures. Minor changes have been made to reflect the new Standard Protocols.

The specialty protocol would be indicated on the skills/procedure checklist application for each CRNP/CNM with the following specialties: 1) Neonatal; 2) Women's Health; 3) Critical Care Middle Level; 4) Critical Care Advanced Level; 5) Orthopaedic; and 6) Midwifery Expanded Specialty.

These procedures have historically been approved with very few exclusions. The Joint Committee approval process remains the same.

Ms. Benson reported that BME approved the proposed changed with the following modifications: 1) for Critical Care Specialty Practice Advanced Level – Thoracostomy Tube Insertion Intraoperative Only; and 2) Women's Specialty Protocol – Punch Biopsy was moved to the standard protocol due to previous approval for superficial skin biopsy and new working obtained from BME for all skin biopsies.

Ms. Benson provided copies of the specialty protocols for each specialty and the specialty protocol guidelines for the Board's information and review.

The Board reviewed and discussed the information provided.

On December 12, Dr. Wright moved that the Board approve the specialty protocol guideline and specialty protocols for the following certifications as a protocol selection: 1) Neonatal; 2) Women's Health; 3) Critical Care Middle Level; 4)

Critical Care Advanced Level; 5) Orthopaedic; and 6) Midwifery Expanded Specialty. Ms. Stewart seconded. Motion carried without objection.

D. Collaboration by Teleconference at Distant Sites

Ms. Cotton reported that applicants for collaborative practice may receive temporary approval for practice at a remote practice site, provided the collaborating physician or an approved covering physician is readily available to respond and provide direct medication intervention as required by regulations. The definition of “Readily Available” does not specify distance in miles or minimum response time, but refers to “usual and customary standards of medical practice.” The regulations also allow the Joint Committee to waive the requirement for documented physician availability. It has been customary practice of the Joint Committee to make recommendations to the Boards, rather than exercise authority to waive the requirements.

Joshua Eslami, CRNP 1-123544 and Shankar B. Yalamanchili MD.26652 on October 7, 2013, received temporary approval for collaborative practice for the physician’s principal practice location in Montgomery. Their application received approval on November 14, 2013.

While the original application was pending, they submitted a second application on November 1, 2013, to modify the protocol by adding covering physicians and practice sites in Alabaster, Andalusia, Birmingham and Sylacauga. The covering physicians are located in Montgomery.

ABN staff reviewed the proposed practice sites for compliance with the rules. The application does not meet the Fast Track criteria for direct approval by the respective Boards, and is scheduled for review at the February meeting of the Joint Committee. Mr. Eslami and Dr. Yalamanchili were notified by letter that the application does not meet the criteria for Temporary Approval, due to the distance from the collaborating or covering physician.

The proposed sites are 60 to 100 miles from Montgomery. The covering physicians are based in Montgomery. Mr. Eslami plans to be on-site with a physician for 16 of 40 hours per week. The application did not specify the sites where a physician would be on-site or available for the 16 hours Mr. Eslami would be with the physician, and did not provide a clear plan for physician availability at the distant sites during the remaining 24 hours per week when Mr. Eslami plans to practice at the remote sites.

Dr. Yalamanchili subsequently provided an outline of the scheduling for each practice site. He requested Temporary Approval and consideration of the scarcity of psychiatric providers in these communities. He plans to add a covering physician in Birmingham, in addition to the physician availability in Montgomery.

The proposal does not include a covering physician on-site or nearby in Andalusia. The practice in Andalusia will provide the patient and Mr. Eslami with video teleconference access to one of three physicians in the Montgomery office. Dr. Yalamanchili, as the collaborating physician, is required to visit each remote site at least quarterly.

Ms. Cotton reported that BME approved the request at their December 11 meeting.

Ms. Cotton provided copies of the application and letter for the Board's information and review.

On December 12, Dr. Wright moved that the Board approve the additional practice sites and plan for collaboration by video teleconference for Joshua Eslami, 1-123544, and Dr. Shankar B. Yalamanchili, 26652. Ms. Stewart seconded. Motion carried without objection.

III. LEGAL

A. Executive Summary of Disciplinary Actions Against Advanced Practice Nurses

Ms. Boden reported that in a previous Board meeting, the Board requested to see an executive summary of disciplinary actions against advanced practice nurses once a year. The executive summary includes disciplinary actions taken during fiscal years 2009 through 2013.

Ms. Boden conducted a power point presentation on disciplinary actions taken against advanced practice nurses.

Ms. Boden provided copies of the advanced practice discipline for FY 2009 through FY 2013 and the power point for the Board's information and review.

Ms. Boden asked if the Board wanted to continue the report. The Board advised they would like to see percentages and a comparison between CRNAs and CRNPs.

IV. EXECUTIVE COMMITTEE

A. EO Evaluation Recommendations

Dr. Lavender reported that the Executive Committee met with the Executive Officer on December 11 and had a productive discussion. The Executive Committee recommends that the EO Evaluation be invalidated.

On December 12, Dr. Wright moved that the Executive Officer evaluation be invalidated. Ms. LaRue seconded. Motion carried without objection.

B. EO Salary Recommendation

Dr. Lavender reported that the Board voted to give the Executive Officer a 5% merit increase and asked the Executive Committee to look at options. Dr. Lavender and Ms. Stewart met with Ms. Johnson, Administrative Services Officer, who informed them that the State does not give bonuses. Dr. Lavender drafted a letter requesting a 5% increase but it can't go forward until the raise freeze is lifted in January 2014.

Ms. Lee reported that the letter has already been sent to Finance. ABN staff will find out if the letter has been sent.

On December 12, Dr. Dearman moved that the Board recommend a 10% merit increase as soon as the freeze is lifted and have Ms. Johnson send the letter to the Finance Director on January 2, 2014. Ms. LaRue seconded.

After discussion, Dr. Dearman amended her motion.

On December 12, Dr. Dearman moved that the Board recommend a 20% increase with justification of a 2 ½% increase for each year that the Executive Officer has not received a pay increase. Ms. LaRue seconded. Motion carried without objection.

Dr. Dearman requested that she and Dr. Lavender sign the letter and get it to the Finance Director on January 2, 2014.

C. AL-HAC Board Representative

Dr. Lavender reported that she attended the November AL-HAC meeting via conference call. Alabama was awarded \$150,000 grant for state implementation.

Dr. Lavender reported that as she rotates off the Board this year, she will no longer be representing the ABN. She asked for volunteers to represent the Board. Ms. Price volunteered to represent the Board on AL-HAC.

Dr. Lavender provided copies of the Alabama Health Action Coalition Summit voting results for the Board's information.

D. Board Self-Evaluation

Dr. Lavender asked the Board members to complete the Board Self-Evaluation and return it to her. Dr. Lavender will collate the results and send the results to Dr. Dearman.

E. Report of Meeting with BME

Dr. Lavender reported that the meeting in October 2013 with BME and the Nurse Practitioner Alliance of Alabama (NPAA) was productive. They were unaware of the work Ms. Benson had done for the web site. Information that involves BME and ABN will be shared via the list serv.

V. OPEN FORUM

A. Mark Wilkerson, Esq., Hearing Officer

Mr. Wilkerson was invited to the Board meeting to discuss any issues, answer questions from the Board regarding how he makes his decisions, and anything about processes that are not specific to a discipline case.

Mr. Wilkerson answered questions from the Board.

B. Registered Nurse First Assistant Proposed Bill for Reimbursement, Patricia L. Payne, RNFA, CNOR

Ms. Lee reported that Patricia Payne, RNFA, CNOR sent an email asking the Board to support proposed legislation to allow for reimbursement of Registered Nurse First Assistants (RNFA). She

submitted additional materials and also inquired about RNFAs being considered advanced practice nurses. The EO's response to her was that RNFAs did not all meet the standards for advanced practice nurses (master's degree or higher and national certification). Since there are 2,000 hours of OR time required before national certification is allowed, Ms. Payne stated she understood why the Board was not likely to classify RNFAs as advanced practice nurses.

Ms. Payne and Chris Johnson, RN, BSN, CNOR, CRNFA, attended the Board meeting and reviewed the minimum education and training requirements for RNFAs. Ms. Payne reviewed the proposed legislation for the Board.

Copies of the proposed legislation, AORN support, RNFA facts, RNFA information, reimbursement laws, AORN position statement, Chris Johnson's resume', and IOM Update was provided for the Board's information and review.

The Board suggested that they meet with the CRNA group that has tried to get reimbursement, look at what other groups have done, talk to the local chapter of the American College of Surgeons and the Medical Association of the State of Alabama (MASA). The Board also suggested that they review the definition of "Insurer".

Ms. Price was not present for the discussion.

C. Anaphylaxis Legislation, Alabama Association of School Nurses

Ms. Lee reported that in the Spring of 2013, the Epinephrine Resource School Nurses presented the idea about having stock epinephrine in the schools. Information was presented about the occurrence of first-time anaphylaxis in the schools. The Alabama Association of School Nurses (AASN) drafted legislation to introduce in the 2014 regular legislative session to allow schools to have stock epinephrine for use in emergent anaphylaxis situations where the student does not have a specific order for premeasured epinephrine. The AASN requests the Board's support on the proposed legislation.

The President recently signed US H 2094, the School Access to Emergency Epinephrine Act.

Ms. Lee provided copies of the proposed legislation, an article about Anaphylaxis in schools, and an Anaphylaxis discussion guide for the Board's information and review.

The Board reviewed and discussed the information provided.

On December 12, Dr. Wright moved that the Board support the proposed legislation. Dr. Parker seconded. Motion carried without objection.

VI. EDUCATION

A. Fortis Institute PN Program Follow Up Teach Out Plan

Dr. Russell reported that following the November Board meeting, a letter was sent to Fortis Institute PN Program advising them of the Board's decisions regarding the teach-out plan. The teach-out plan was reviewed with Dr. Anders and Dr. Russell at the December 3, 2013 meeting. Dr. Anders requested that the September admissions and those with only one nursing course be allowed to teach out and he was advised that that was not possible.

Dr. Russell provided copies of the letter to Fortis Institute and the revised teach-out plan for the Board's information and review.

The Board reviewed and discussed the teach-out plan.

On December 12, Dr. Wright moved that the Board approve the teach-out plan. Dr. Parker seconded. Motion carried without objection.

Ms. Price was not present from 11:36 to 11:39 a.m.

B. Virginia College Birmingham ADN Program Teach Out Plan

Virginia College was deleted from the agenda.

C. Judson College ADN Program Report Site Visit

Dr. Russell reported that Judson College was granted Provisional Approval in November, 2011. Provisional Approval continues until the first class graduates and takes the NCLEX-RN®. The current regulations require that that 80% of the graduates of an approved nursing education program pass the first time the national exam is taken. Following the FY 2013 NCLEX-RN® results Judson College had a 60% first-time writer pass rate on the NCLEX-RN®. As a result of failure to achieve the outcome standard, the education nurse consultant conducted a site visit on November 18, 2013. Dr. Potts, Campus President; Dr. Bullard, Academic Dean; Dr. Wanda

Hayes, Program Director; and Dr. Denise Elliot, Nursing Consultant, were present. Dr. Hayes assumed the role of program director in August 2013. Site visitors also met with students and faculty. Approximately fifteen students participated in the student session and three faculty members participated in the faculty session.

Judson College's initial program director was a master's prepared nurse practitioner who did not have any previous experience in nursing academia. She resigned abruptly in December 2012. Ms. Karole Purdie assumed the role of interim program director until Dr. Hayes was appointed in August 2013. Ms. Purdie did not have the experience to be the program director but Dr. Elliott was on campus to assist her. Dr. Hayes has over 31 years of professional nursing experience and approximately two to three years of formal teaching experience. She recently completed a DNP with an academic nurse educator concentration. Dr. Denise Elliott who has over 15 years of success as a program director with an associate degree program is currently employed as a consultant and faculty member. The initial interview with the President and academic dean revealed that the initial program director withheld pertinent information regarding students' performance. Upon receipts of complaints from students, the academic dean asked the program director to supply information. In response to his inquiry, she resigned effective that day. Inexperienced nursing leadership may partially explain the program's inability to achieve the 80% passage rate for first- time writers. The program's Systematic Evaluation Plan has not been updated since it was written.

There are four full time faculty members at Judson College. Karole Purdie has been there since its inception. The other two faculty members began in July and September 2013. The program director assumed her position in August 2013. Upon reviewing the files, the faculty curriculum vitae/resumes have not been updated. Faculty has limited teaching experience. The majority of the nursing faculty did not have prior teaching experience in a nursing program. Judson College recognized the inexperience of its faculty and hired a consultant from Samford University to assist with faculty development.

Students are not represented on committees and do not have a formal process for influencing policies. Dr. Elliott is working with Dr. Hayes to ensure that policies are written and published. Judson College students complete end of the course and clinical evaluations. These evaluations tools are consistently completed by students and we were told that faculty uses the evaluations as a mechanism to assess and improve the program.

There are three full time faculty, one part -time faculty/consultant, and the program administrator. The college uses several clinical instructors and state that their clinical faculty to student ratio is 1:5 /6. The faculty stated that they needed an additional faculty member, however; there is no evidence from the board perspective that there is an insufficient number of faculty.

The current faculty stated that they are currently using ATI to augment classroom learning and assess the student's needs. However, the faculty was unable to articulate whether the implementation of the ATI program as designed positively impacted students' performance.

Dr. Bullard, Dr. Hayes, and Dr. Elliott were present and answered questions from the Board.

On December 12, Ms. Stewart moved that the Board issue a Notice of Deficiency and continue Provisional Approval to Judson College for failure to comply with the ABN Administrative Code, Chapter 610-X-3, with an expected correction date of September 30, 2014. Dr. Parker seconded. Motion carried without objection.

VII. EXECUTIVE OFFICER

A. Request from Governor's Office

Ms. Lee reported that a telephone call from Dave White, Governor Bentley's Health Policy Advisor, raised the issue of fingerprinting. The Governor and Mr. White were attending the Council of State Governments and Lindsay Beaver of NCSBN spoke about fingerprinting of nurses and applicants for licensure. Mr. White requested, on behalf of Governor Bentley, that the Board consider fingerprinting of applicants and licensed nurses. Mr. White was apprised of previous research on the issue. The ABN investigators and attorneys researched the issue, including speaking to other boards of nursing.

Ms. Lee reported that the ABN would not be able to use the information received from the FBI. Staff would have to request that the applicant or licensee provide the information.

Mr. Kenney reported that the cost for both ABI and FBI background checks will be about \$41.50 for the licensee/applicant. The results of the ABI background check takes one to two days

and the nationwide check takes around two weeks to receive. The LiveScan system which includes the scanning device and the computer costs between \$7,000 and \$9,000 each and includes training.

The Board reviewed and discussed the information provided.

After discussion, the Board determined that requiring criminal background checks will delay licensure; they do not see how it protects the public and believes the issue will be controversial.

Ms. Lee provided copies of the CBC Model Language, Resolution of State Council of Governments, an article on Nurse Licensure Criminal Background Checks, and the information collected by the investigators for the Board's information and review.

Ms. Price was not present for the discussion.

Dr. Dearman was not present from 1:50 to 1:55 p.m.

Dr. Parker was not present from 1:58 to 2:02 p.m.

Ms. LaRue was not present from 2:02 to 2:05 p.m.

VIII. NEXT MEETING DATE: January 16-17, 2014, 770 Washington Ave, RSA Plaza Suite 350

IX. OTHER

A. U.S. Department of Justice Update

Ms. Henley reported that the U.S. Department of Justice has issued findings against the State of Alabama, including the ABN, the Alabama Department of Education and the Alabama Attorney General's Office, and she will provide more information when it becomes available.

Ms. Price was not present for the discussion.

B. Decision About Director Point

John Peinhardt, Director Point, conducted a tutorial on how Director Point works. The Board members used iPads and Director Point for the meeting to test the software.

Ms. Lee asked the Board if they prefer laptops or iPads with Director Point. The Board liked the iPads and Director Point and requested that staff pursue discussions about costs and contracts.

Ms. Price was not present for the discussion.

- Ms. Stewart presented the Board members that are rotating off the Board with a plaque from the Governor and one from ABN.

X. BOARD MEETING DERIEFING

XI. ADJOURNMENT

The meeting adjourned at 2:20 p.m. on December 12, 2013.

Martha Lavender, President

Melissa Bullard, Secretary

Submitted by: _____
Leslie Vinson, Recorder
12/12/2013